

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

City of Detroit, *et al.*,

Plaintiffs,

v.

Case No.: 13-14827

City of Highland Park, a municipal corporation,

Honorable Sean F. Cox

Defendant.

ORDER

Plaintiffs City of Detroit and the Detroit Water and Sewerage Department filed this action on November 22, 2013, asserting federal-question jurisdiction pursuant to 28 U.S.C. §1331.

Plaintiffs' Complaint states as follows with respect to the nature of this civil action: “[t]his is a civil action pursuant to § 204 of the Clean Water Act, 22 USC 1284 (b) (the ‘Act’), § 56-3-60.1 and § 56-3-61.1 of the City of Detroit Ordinance No. 08-05 (‘Ordinance’), and 35.929 of Chapter 40 of the Code of Federal Regulations. The City of Detroit (‘Plaintiff’ or ‘City’) and the Detroit Water and Sewerage Department (‘Plaintiff’ or ‘City’) and the Detroit Water and Sewerage Department (‘Plaintiff’ or ‘DWSD’) (collectively, ‘Plaintiffs’), seek to collect fees due and owing as a result of sewage treatment services rendered to the City of Highland Park (‘Defendant’ or ‘Highland Park’).” (Compl. at ¶ 1).

Plaintiffs' Complaint contains the following statement regarding this Court's subject matter jurisdiction over this action:

2. Jurisdiction is vested in this Court pursuant to 28 U.S.C. § 1331 the

Ordinance, and the Amended Consent Judgment entered by this Court in Civil Action Nos. 92-cv-76775-DT, and 94-cv-73135-DT.

(Compl. at ¶ 2).

Plaintiffs assert the following state-law claims in this action: 1) “Breach of Contract” (Count I); 2) “Implied Contract” (Count II); 3) “Quantum Meruit” (Count III); “Account Stated” (Count IV); and 5) “Conversion” (Count V).

“[F]ederal courts have an independent obligation to investigate and police the boundaries of their own jurisdiction.” *Douglas v. E.F. Baldwin & Assocs., Inc.*, 150 F.3d 604, 607 (6th Cir. 1998); *see also Walbridge Aldinger Co. v. City of Detroit*, 296 Fed. App’x. 527, 531 (6th Cir. 2008)

Having reviewed Plaintiffs’ complaint, this Court was not persuaded that it has subject matter jurisdiction over Plaintiffs’ claims.

Although the introductory section of Plaintiffs’ Complaint Plaintiffs’ Complaint states that this “is a civil action pursuant to § 204 of the Clean Water Act, 33 USC 1284(b),” the body of the Complaint does not assert any claims under the Clean Water Act. Moreover, the Complaint asserts state-law claims.

Plaintiffs have the burden of establishing subject matter jurisdiction. *Walbridge Aldinger Co. v. City of Detroit*, 296 Fed. App’x. 527, 532 (6th Cir. 2008). Thus, it is incumbent upon Plaintiffs to “advance the facts and theories necessary to establish subject matter jurisdiction” over this action. *Id.*

Plaintiffs were “**ORDERED TO SHOW CAUSE**, in writing, **on or before December 16, 2013**, why this case should not be dismissed for lack of subject matter jurisdiction.” (Docket Entry No. 5) (emphasis in original).

On December 16, 2013, Plaintiffs filed a response to the Show Cause Order. (Docket

Entry No. 8). In it, Plaintiffs assert that this Court has jurisdiction to enforce any breach of the settlement agreement that was incorporated into the Amended Consent Judgment that resolved Civil Action Nos. 92-cv-76775-DT and 94-cv-73135-DT. Plaintiffs also ask this Court to exercise supplemental jurisdiction over their additional state-law claims.

Having considered Plaintiffs' Complaint and response to the Show Cause Order, this Court concludes that it has subject matter jurisdiction over that portion of Count I of Plaintiffs' Complaint, if any, that is based upon an alleged breach of the Amended Consent Judgment that resolved Civil Action Nos. 92-cv-76775-DT and 94-cv-73135-DT.

As to Plaintiffs' remaining state-law claims, this Court **DECLINES TO EXERCISE SUPPLEMENTAL JURISDICTION** over those claims.

Accordingly, the Court **DISMISSES WITHOUT PREJUDICE** Counts II, III, IV, and V of Plaintiffs' Complaint. The Court also **DISMISSES WITHOUT PREJUDICE** any portions of Count I that are based upon anything other than a breach of the Amended Consent Judgment that resolved Civil Action Nos. 92-cv-76775-DT and 94-cv-73135-DT.

IT IS FURTHER ORDERED that the parties shall appear for a Status Conference in this matter on **January 27, 2014 at 3:30 p.m.**

IT IS SO ORDERED.

S/Sean F. Cox
Sean F. Cox
United States District Judge

Dated: December 30, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 30, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy
Case Manager